

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

FREDERICK J. GREGG,

Petitioner,

v.

Case No. 2:09-cv-133
HON. R. ALLAN EDGAR

JEFF WOODS,

Respondent.

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MEMORANDUM AND ORDER

Petitioner Frederick J. Gregg, a Michigan state prisoner in the custody of the Michigan Department of Corrections, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. The case was referred to Magistrate Judge Timothy P. Greeley for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(d). On August 26, 2009, the Magistrate Judge submitted his report and recommendation. [Doc. No. 8].

It is recommended that the habeas petition be denied and dismissed with prejudice on the ground that it is time-barred by the one-year statute of limitations in 28 U.S.C. § 2244(d)(1)(A). It is further recommended that a certificate of appealability be denied under 28 U.S.C. § 2253(c)(2).

Petitioner Gregg has not timely filed any objections to the report and recommendation. After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b).

Accordingly, the Court concludes that the 28 U.S.C. § 2254 habeas petition must be denied for the reasons expressed in the report and recommendation. The petition for writ of habeas corpus brought under 28 U.S.C. § 2254 shall be **DENIED and DISMISSED WITH PREJUDICE** on the ground that it is time-barred by the one-year statute of limitations in 28 U.S.C. § 2244(d)(1)(A).

If petitioner Gregg files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be **DENIED** pursuant to 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1); and *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) for the reasons expressed in the report and recommendation. Reasonable jurists could not find it debatable whether the petitioner's habeas claims have been properly dismissed on the ground that they are time barred the statute of limitations in 28 U.S.C. § 2244(d)(1)(A).

A separate judgment will enter.

SO ORDERED.

Dated: September 25, 2009.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE